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OFFICE OF PETITIONS

In re Application of :  
Malcolm Thomas Hammond :  
Application No. 10/782,174 : ON PETITION  
Filed: 20 February, 2004 :  
Atty Docket No. 263593.00002 :

This is a decision on the petition, filed on 14 July, 2006, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is GRANTED.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 3 June, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
  - (2) the petition fee as set forth in 37 CFR 1.17(m);
- and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 31 May, 2007, is enclosed herewith.

The application is being referred to Technology Center Art Unit 3782 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

Encl:        Communication Regarding Rescission of Nonpublication  
             Request and/or Notice of Foreign Filing



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UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
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 Alexandria, Virginia 22313-1450  
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/782,174	02/20/2004	Malcolm Thomas Hammond	263593.00002

CONFIRMATION NO. 4503

Fasken Martineau DuMoulin LLP  
 2100 - 1075 West Georgia Street  
 Vancouver, BC V6E 3G2

CANADA

Date Mailed: 02/20/2007

### Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/31/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"<sup>1</sup> then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail [pgpub@uspto.gov](mailto:pgpub@uspto.gov).

<sup>1</sup> Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

PART 1 - ATTORNEY/APPLICANT COPY